

PROJECT SAFE NEIGHBORHOODS
QUICK REFERENCE TO FEDERAL
FIREARMS LAWS
Northern District of Indiana



I. POSSESSION OR RECEIPT OF A FIREARM OR AMMUNITION BY A PROHIBITED PERSON:

18 USC § 922(g). Punishable by up to 10 years imprisonment. Pursuant to 18 USC § 924(e), may receive minimum sentence of 15 years without parole if offender has 3 or more prior convictions for a felony crime of violence (e.g., burglary, arson, extortion, assault) and/or drug trafficking felony.

Elements

- A. **Knowing possession or receipt** of a firearm or ammunition;
B. By a subject who falls within one of the following categories:
Felon - (Additionally, persons awaiting trial on felony charges are prohibited from **receiving** firearms. See 18 USC § 922(n));
Drug user or addict - Inference of current use may be shown by evidence of recent use or possession or pattern of use or possession that reasonably covers the present time (e.g., positive drug test; conviction for use or possession within past year.);
Alien - Includes illegal aliens and non-immigrant aliens. This provision does not prohibit an alien with a "green card" from possessing guns or ammunition. *NOTE: certain exceptions in 18 USC § 922(y);*
Person adjudicated as mental defective or committed to mental institution;
Person subject to a domestic restraining order - The order must prohibit specific conduct against an intimate partner or a child of either the intimate partner or person subject to the order and must have been issued after a hearing of which the subject was notified and at which the subject had an opportunity to participate. The order must also find the subject poses a credible threat to the physical safety of the intimate partner or child described above or must prohibit the use, attempted use, or threatened use of physical force.;
Person with a prior misdemeanor conviction for domestic violence - The prior conviction must be for a crime which has as an element the use or attempted use of physical force or the threatened use of a deadly weapon. It must have been committed by someone in a specific domestic relationship with the victim (e.g., spouse or former spouse, partner, parent, or guardian). The subject must have been represented by counsel or waived that right and if entitled to a jury trial, had a jury trial or waived that right.;
Fugitive from justice - Fleed any state to avoid being prosecuted or to avoid testifying in any criminal proceeding.; or
Person dishonorably discharged from the military;
C. **AND**, the firearm or ammunition was transported across a state line at any time. (Defendant need not have transported the firearm or known of its transportation across state lines.)

II. KNOWINGLY SELL, GIVE OR OTHERWISE DISPOSE OF ANY FIREARM OR AMMUNITION TO ANY PERSON WHO FALLS WITHIN ONE OF THE ABOVE CATEGORIES:

18 USC § 922(d). Punishable by up to 10 years imprisonment.

III. USE, CARRY OR POSSESS A FIREARM IN RELATION TO OR IN FURTHERANCE OF A FEDERAL DRUG FELONY OR A FEDERAL CRIME OF VIOLENCE:

18 USC § 924(c); 18 USC § 924(j). Punishment ranges from at least 5 years up to life imprisonment, without parole, or death if death results from use of firearm. Sentence of imprisonment must be served **consecutive** to any other sentence. Mandatory minimum sentence increases depending upon: **the type of firearm involved** (short-barreled rifle or shotgun; silencer, etc.); **whether it is a second or subsequent offense**; and **whether gun was brandished or discharged**.

IV. STOLEN FIREARM, AMMUNITION OR EXPLOSIVE:

- A. **18 USC §§ 842(h); 922(i), & (j).** Punishable by up to 10 years imprisonment. May not knowingly transport or ship in interstate commerce or receive, possess, conceal, pledge or accept as security for a loan any **stolen firearm, ammunition or explosive** which has moved in interstate commerce.
B. **18 USC § 922(u).** Punishable by up to 5 years imprisonment. May not willfully steal or unlawfully take or carry away a firearm that has been shipped or transported in interstate commerce **from the person or premises of a firearms licensee**.

V. FIREARM IN A SCHOOL ZONE:

18 USC § 922(q)(2), (3). Misdemeanor offense punishable by up to 5 years imprisonment. Generally, may not **possess or discharge** a firearm (that has moved in interstate commerce) in a school zone.

VI. KNOWINGLY POSSESS OR MANUFACTURE CERTAIN FIREARMS:

Various offenses punishable by up to 5 or 10 years imprisonment, depending upon specific violation.

- A. **26 USC § 5861.** Generally unlawful to make or possess **any unregistered machine gun** or any part designed or intended exclusively for use in converting a weapon into such weapon, **firearm silencer, sawed-off shotgun or rifle** which meet specific length criteria, or **destructive device** (as defined in 26 USC § 5845); see also **18 USC § 922(o)**: generally unlawful to possess or transfer all machine guns made on or after May 19, 1986;
B. **18 USC § 922(v).** Generally unlawful to manufacture, transfer, or possess **semi-automatic assault weapon** manufactured after Sept. 13, 1994; OR
C. **18 USC § 922(k).** Generally unlawful to possess or receive any firearm that has moved in interstate commerce which **lacks a serial number** or contains an **altered or obliterated serial number**.

VII. SELL, DELIVER OR TRANSFER FIREARM OR AMMUNITION TO A JUVENILE:

- A. **18 USC § 922(x)(1).** Punishable by up to 1 year imprisonment unless transferor had reason to believe juvenile would commit crime of violence with gun or ammunition, then up to 10 years imprisonment. May not sell, deliver or transfer a handgun or handgun-only ammunition to **a person who is under age 18**;
B. **18 USC § 922(x)(2).** A person under age 18 may not possess a handgun or handgun-only ammunition;
(NOTE: Certain exceptions apply to A & B, such as where juvenile possesses written permission of a parent.);
C. **18 USC § 922(b).** Punishable by up to 5 years imprisonment. A **firearms licensee** may not sell any gun or ammunition to anyone under the age of 18 and may not sell a handgun or handgun ammunition to **a person under the age of 21**.

FORFEITURE OF FIREARMS, AMMUNITION & EXPLOSIVES:

Firearms, as defined below, involved in the aforementioned violations, or violations of firearms registration or tax laws may be forfeited by ATF. Firearms involved in drug violations may be forfeited by other federal agencies. Both civil and criminal forfeiture are available. Civil forfeiture does not require a federal prosecution. An agency must give notice of proposed civil forfeiture within 60 days of a federal seizure and within 90 days of a State or local seizure. To meet these deadlines, a State or local agency generally must refer a firearm seizure to a federal agency for administrative or civil forfeiture within 30 days of the seizure by the State or local agency. Contact the federal agency forfeiture staff immediately upon seizure, even if the firearm is needed as evidence in a criminal case.

DEFINITION OF "FIREARM": 18 USC § 921(a)(3), (4). Any weapon (including a starter gun) which will expel a projectile by means of an explosive or is designed or may be readily converted to do so. This includes the frame or receiver of any such weapon, any firearm muffler or silencer or any destructive device. A **"destructive device"** includes any explosive, incendiary or poison gas --- (i) bomb; (ii) grenade or (iii) similar device, or any combination of parts designed or intended for use in converting any device into a destructive device, or from which a destructive device may be readily assembled. **Does not include antique firearms.**